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November 21, 2022

Via ECF

The Honorable Vernon S. Broderick
United States District Court
Southern District of New York
40 Foley Square, Room 415
New York, NY 10007

Re: Rankine v. Levi Strauss & Co., Case No. 1:22-cv-03362-VSB

Dear Judge Broderick:

I represent Plaintiff in the above-captioned action. I write pursuant to Rule 1.A of Your Honor's Individual Rules & Practices in Civil Cases and in response to Defendant's notice of supplemental authority. ECF No. 34.

The decision in *Gutierrez* has nothing to do with this case or the *Vega* decision. The Second Department held that NYLL § 191 "pertains to frequency of pay and not unpaid wages." But *Vega* never said otherwise. As Defendant freely admits, *Gutierrez* did not "address whether NYLL § 198 allows for a private right of action under NYLL § 191."

Defendant is attacking a strawman. The fact that the Second Department held that § 191 is inapplicable to unpaid wages does not mean it believes that § 191 violations are unactionable. To the contrary, as noted in Plaintiff's briefing, legislative memoranda from the passing of the modern-day Section 198 show an intent to create a private right of action with liquidated damages from late payment of wages.

Finally, there is no basis for a stay pending *Grant*—a non-binding decision that, at most, will be added to the long list of persuasive decisions the Court already has to consider. As such, other courts have denied similar requests to stay. *Jones v. Nike Retail Servs., Inc.*, 2022 WL 4007056, at *1 (E.D.N.Y. Aug. 30, 2022) (denying motion to stay pending *Grant*, holding "[t]he Court has balanced the possible damage or hardship that may result from a stay against the benefit arising from the stay, and finds a stay completely unwarranted.").

Respectfully,

A handwritten signature in blue ink, appearing to read "Yf. Kopel", is centered on the page. The signature is written in a cursive, stylized font.

CC: All counsel of record via ECF

Yitzchak Kopel